

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CAMOFI MASTER LDC, et al.,

Plaintiffs,

vs.

Jerrold Pressman, et al.,

Defendants.

and

U.S. Aerospace, Inc.,

Nominal Defendant.

CASE NO. CV 11-4574-JLS (SPx)

**ORDER ACCEPTING REPORT  
AND RECOMMENDATION OF  
UNITED STATES MAGISTRATE  
JUDGE AND DIRECTING THAT  
DEFAULT BE ENTERED AGAINST  
CERTAIN DEFENDANTS**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the records on file and the Report and Recommendation of the United States Magistrate Judge on Plaintiffs' Motion for Sanctions. (Doc. 348.) Further, the Court has engaged in a de novo review of those portions of the Report to which certain Defendants have objected. Specifically, Defendants Charles Arnold, Daisy Rodriguez, KC-X American Aerospace, LLC, and TUSA Acquisition Corp. argue that as innocent clients kept "in the dark" from their attorney's misconduct, they should not be subject to terminating sanctions. (*See* Doc. 365.) For the following reasons, these objections do nothing to invalidate the Magistrate Judge's determination that such sanctions are warranted here.

1 First, the Ninth Circuit has made clear “[t]here is certainly no merit to the  
2 contention that dismissal of [a party’s] claim because of his counsel’s unexcused  
3 conduct imposes an unjust penalty on the client.” *See Toth v. Trans World Airlines,*  
4 *Inc.*, 862 F.2d 1381, 1387 (9th Cir. 1988) (quoting *Link v. Wabash Railroad Co.*,  
5 370 U.S. 626, 633 (1962)). The Defendants here “voluntarily chose [their] attorney  
6 as [their] representative in th[is] action, and [they] cannot now avoid the  
7 consequences of the acts or omissions of this freely selected agent.” *Id.* (quoting  
8 *Link*, 370 U.S. at 633-34). Second, upon reviewing the records on file, it appears  
9 that these Defendants were aware of their attorney’s misconduct before Plaintiffs  
10 filed their motion for sanctions. The Court therefore finds no reason to challenge  
11 the Magistrate Judge’s determination. Nor do the objections of the other affected  
12 Defendants, which speak to the five-factor framework of terminating sanctions,  
13 (Doc. 367), alter the Court’s conclusion. Accordingly, the Court accepts the  
14 findings and recommendation of the Magistrate Judge.

15 IT IS THEREFORE ORDERED that: (1) Plaintiffs’ Motion for Sanctions  
16 (Doc. 324) is granted; and (2) default be entered pursuant to Rule 37(b)(2)(A)  
17 against defendants Michael Goldberg, Kenneth Kooock, Charles Arnold, John C.  
18 Kirkland, ADI, Richard Berkshire, TUSA, Daisy Rodriguez, KC-X, and the Estate  
19 of Richard Fixaris.

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23 DATED: January 26, 2016



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HONORABLE JOSEPHINE L. STATON  
UNITED STATES DISTRICT JUDGE